

REMARKS

The applicant hereby elects, with traverse, Invention I (claims 1-26), drawn to a Jig Assembly. The applicant, while maintaining the above traversal, also elects Species II of the Jig (shown in Fig. 5), Species B of the Drill Guide (shown in Fig. 14), and Species i of the Gauge (shown in Fig. 15). Claims 1-26 read on the elected invention.

The Examiner states that the search required for the Group II claims a very specific implant and such is not required for Group I. The Examiner concludes that there is burden to search Invention II (claims 27 and 28) because even though it is expected that the searches will overlap, "there is no reason for the searches to be coextensive." This is not the proper basis on which to determine the burden of a search. MPEP § 803 is clear:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) -§ 806.04(i), § 808.01(a), and § 808.02).

MPEP 803 does not require that the search be coextensive. It is noted that elected claim 1 already includes reference to an orthopedic implant in the preamble to which operation of the claimed system is referenced. It is submitted that it is no "serious" burden for the Examiner to search the entire application. It is likely that any complete search for even Group I and will encompass both subclasses 96 and 99 of class 606. In view of the subject matter claimed and the clear mandate of the MPEP, the Examiner is respectfully

requested to withdraw the restriction requirement and undertake the minor burden that may exist by examining all claims in the present application.

The Examiner is invited to call the undersigned attorney of record if doing so may cause the case to proceed expeditiously to allowance.

Respectfully submitted,



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May 25, 2004